

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

March 2, 2022

1:33 p.m.

MEMBERS PRESENT

Senator Roger Holland, Chair
Senator Mike Shower, Vice Chair
Senator Shelley Hughes
Senator Robert Myers
Senator Jesse Kiehl

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 182

"An Act establishing the crime of interference with emergency communications."

- MOVED CSSB 182 (JUD) OUT OF COMMITTEE

SENATE BILL NO. 189

"An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacatur of judgment for a conviction of prostitution; and providing for an effective date."

- HEARD & HELD

SENATE BILL NO. 187

"An Act relating to criminal law and procedure; relating to the crime of harassment; relating to the duty to register as a sex offender; amending the definition of 'sex offense'; relating to lifetime revocation of a teaching certificate for certain offenses; relating to the definition of 'domestic violence'; relating to multidisciplinary child protection teams; relating to arrest authority for pretrial services officers and probation officers; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

PREVIOUS COMMITTEE ACTION

BILL: SB 182

SHORT TITLE: INTERFERENCE WITH EMERGENCY SERVICES

SPONSOR(s): SENATOR(s) WILSON

02/08/22	(S)	READ THE FIRST TIME - REFERRALS
02/08/22	(S)	JUD
02/16/22	(S)	JUD AT 1:30 PM BUTROVICH 205
02/16/22	(S)	Heard & Held
02/16/22	(S)	MINUTE(JUD)
02/25/22	(S)	JUD AT 1:30 PM BUTROVICH 205
02/25/22	(S)	Heard & Held
02/25/22	(S)	MINUTE(JUD)
02/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205
02/28/22	(S)	<Bill Hearing Rescheduled to 03/02/22>
03/02/22	(S)	JUD AT 1:30 PM BUTROVICH 205

BILL: SB 189

SHORT TITLE: CRIME OF SEX/HUMAN TRAFFICKING

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

02/15/22	(S)	READ THE FIRST TIME - REFERRALS
02/15/22	(S)	JUD, FIN
02/28/22	(S)	JUD AT 1:30 PM BUTROVICH 205
02/28/22	(S)	Heard & Held
02/28/22	(S)	MINUTE(JUD)
03/02/22	(S)	JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

ED KING, Staff
Senator Roger Holland
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Explained the changes in the committee substitute (CS) for SB 189, Version 0, on behalf of the committee.

SCOTT OGAN, Staff
Senator Mike Shower
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on Amendment 1 to SB 182 on behalf of Senator Shower.

JASMIN MARTIN, Staff
Senator David Wilson
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Answered questions on Amendment 1 on behalf of the sponsor of SB 182.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered legal questions during the hearing on SB 182.

JOHN SKIDMORE, Deputy Attorney General
Office of the Attorney General
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Answered legal questions during the hearing on SB 189.

NANCY MEADE, General Counsel
Administrative Offices
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Answered questions on the court system's process for vacating convictions, and information on CourtView during the hearing on SB 189.

LISA PURINTON, Chief
Criminal Records and Identification Bureau
Department of Public Safety (DPS)
Anchorage, Alaska

POSITION STATEMENT: Explained the provisions in SB 189 related to when background information would be released.

TONY WEGRZYN, Sergeant
Alaska State Troopers
Department of Public Safety (DPS)
Wasilla, Alaska

POSITION STATEMENT: Provided invited testimony in support of SB 189.

CHRIS DARNALL, Assistant Attorney General
Office of Special Prosecutions
Criminal Division
Department of Law
Anchorage, Alaska

POSITION STATEMENT: Provided invited testimony in support of SB 189.

ACTION NARRATIVE

[1:33:07 PM](#)

CHAIR ROGER HOLLAND called the Senate Judiciary Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Myers, Hughes, Shower, Kiehl, and Chair Holland.

SB 182-INTERFERENCE WITH EMERGENCY SERVICES

[1:33:40 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 182 "An Act establishing the crime of interference with emergency communications."

[SB 182 was previously heard on 2/16/22, 2/25/22, and public testimony was opened and closed on 2/16/22.]

[1:34:01 PM](#)

SENATOR SHOWER moved to adopt the proposed committee substitute (CS) for SB 182, work order 32-LS1103\O, Version O, as the working document.

CHAIR HOLLAND objected for discussion purposes.

[1:34:23 PM](#)

ED KING, Staff, Senator Roger Holland, Alaska State Legislature, Juneau, Alaska, directed attention to the Explanation of Changes for the committee substitute (CS) for SB 182, from Version G to Version O.

EXPLANATION OF CHANGES (VERSION G TO VERSION O)

The Senate Judiciary Committee Substitute makes the following changes:

Page 1, lines 14-15:

(3) threatens [USES OBSCENE LANGUAGE DURING] an emergency communication with the intent to intimidate or harass an emergency communications worker

Page 2, lines 1-12:

(4) with the intent to cause a disruption in service, interferes with, blocks, or otherwise disrupts an emergency communication [COMMUNICATIONS] the takes place by telephone, radio or other electronic means between

(A) an emergency communications worker and police, fire, or medical service personnel;

(B) between police, fire, or medical service personnel, [WITH THE INTENT TO CAUSE A DISRUPTION IN SERVICE]; or

(C) an emergency communications worker and a person reporting an emergency or otherwise assisting the emergency communication worker during the emergency communication.

(b) Interference with emergency communications under (a)(4) of this section does not apply to in-person communications or [THIS PARAGRAPH DOES NOT APPLY TO] routine maintenance conducted by authorized personnel.

Page 2, lines 14-16:

"emergency communications" means a communication made to or from an emergency communications center or between police, fire, or medical service personnel in response to an emergency:

(c) Interference with emergency communications is

(1) a class C felony if

[(A) WITHIN THE PRECEDING 10 YEARS, THE PERSON WAS CONVICTED ON TWO OR MORE SEPARATE OCCASIONS OF INTERFERENCE WITH EMERGENCY COMMUNICATIONS IN THIS JURISDICTION OR A SIMILAR CRIME IN ANOTHER JURISDICTION OR

(B)] the interference results in serious physical injury to or the death of a person;

[1:34:35 PM](#)

MR. KING referred to page 1, lines 14-15 of SB 182, Version O, adds "threatens" and removes "uses obscene language during".

[1:34:42 PM](#)

MR. KING said the language on page 2, lines 1-12 of the committee substitute (CS) for SB 189 Version O makes several changes. First, it would address the concern about in-person communications by clarifying that the communications must be by telephone, radio, or other electronic means.

[1:35:15 PM](#)

At ease

[1:35:44 PM](#)

CHAIR HOLLAND reconvened the meeting.

MR. KING explained that the provisions in subparagraph (C) would cover communications with a civilian interacting with an emergency communications worker.

MR. KING further explained that subsection (b) would further the point that in-person communications are exempted from the new provisions in law.

MR. KING referred to page 2, lines 14-16 of Version O. He explained that the definition of "emergency communications" was amended to include communications to and from a communications center or between police, fire, or medical service personnel in response to an emergency. This change was to address the committee's concerns.

MR. KING said the last change is on page 2, line 30 through page 3, line 2. That provision made it a class C felony to have more than one offense of interference with emergency communications within ten years. Under Version O, the penalty would be a class A misdemeanor regardless of the number of offenses.

[1:37:14 PM](#)

CHAIR HOLLAND removed his objection. He heard no further objection, and Version O was before the committee.

[1:37:25 PM](#)

SENATOR SHOWER moved to adopt Amendment 1, work order 32-LS1103\O.2.

32-LS1103\O.2
Radford
3/1/22

AMENDMENT 1

OFFERED IN THE SENATE BY SENATOR SHOWER
TO: CSSB 182(JUD), Draft Version "O"

Page 2, following line 12:

Insert a new subsection to read:

"(c) A person may not be charged with an offense under (a)(1) of this section if the person, acting in good faith and in a manner the person reasonably believed to be in the best interests of the person experiencing an emergency, made an effort to assist another person experiencing an emergency and made repeated emergency communications relating to the emergency."

Reletter the following subsections accordingly.

CHAIR HOLLAND objected for discussion purposes.

1:37:39 PM

SENATOR SHOWER read Amendment 1. He explained that this would protect a person who was under duress during an emergency and was frantically trying to get assistance from being penalized under the harassment statute, although their behavior may have been construed as disruptive. He highlighted that this would apply to someone acting in good faith with no intent to cause problems for the communications center.

1:39:20 PM

SENATOR KIEHL wondered how someone acting in good faith would be making threats during an emergency with the intention of helping.

SENATOR SHOWER replied that the communications could be between people in the field during an emergency. He related that a person could be supercharged with adrenaline and emotion in those situations. Suppose the person was trying to help the officers or firefighters, but the emergency responders told the person to step back or be arrested. He stated the intent of Amendment 1 was to recognize that the person was trying to help, so they shouldn't be charged.

1:41:48 PM

SENATOR HUGHES asked if the sponsor intended for Amendment 1 to apply to a person at the emergency scene or if it would apply to someone who calls the dispatcher.

SENATOR SHOWER answered that the intent was to apply to people on the scene who were trying to assist someone but were disruptive. He acknowledged that someone might interpret the language in Amendment 1 to apply to callers.

[1:43:08 PM](#)

SENATOR HUGHES suggested language could be added to clarify it was at the emergency location. She referred to the language on line 4 of Amendment 1, "in a manner the person reasonably believed" since people would always think their actions were reasonable. She further suggested that there might be a legal term for someone else believing that the person's actions on scene were reasonable.

[1:44:01 PM](#)

CHAIR HOLLAND stated that a person being charged might make that argument in front of a judge or a court.

[1:44:13 PM](#)

SENATOR SHOWER related that his staff worked with Legislative Legal Services on Amendment 1, so he may have comments.

[1:44:46 PM](#)

SCOTT OGAN, Staff, Senator Shower, Alaska State Legislature, Juneau, Alaska, on behalf of Senator Shower, related his personal experience with emergency services when a piece of equipment ran over a neighbor. At the time, he was working for a volunteer fire department that responded to the accident. He recalled that he repeatedly called 911 to get the status of the medical personnel because he was concerned that the injured person would bleed to death. He emphasized that it is important to capture the committee's discussion for the record. He offered his belief that Amendment 1 could apply to a person on the scene or someone who called 911.

SENATOR SHOWER said that wasn't his intent, but someone might interpret the language to mean people making repetitive calls to the call center. He stated the intent was to add language that showed they would not be criminally charged if they were acting "in good faith."

[1:47:45 PM](#)

SENATOR HUGHES related her understanding that the language "in a manner the person reasonably believed" should apply to what an ordinary person would believe was reasonable. She suggested that Mr. Skidmore might weigh in on that language.

1:48:18 PM

SENATOR KIEHL said he thinks the committee substitute (CS) would address it. He offered his belief that the only way someone would be committing a crime on the scene would be by unplugging or jamming radios or telephones. The person would need to intend to disrupt service and block or disrupt communication by electronic means. He stated that the trigger in the bill for calls would be that the emergency dispatchers told the person to stop calling. He suggested that this language would cover the situation Mr. Ogan described. He wondered if "in a manner, the person reasonably believed" really refers to third-party assessments of the person's behavior.

1:50:02 PM

At ease

1:51:22 PM

CHAIR HOLLAND reconvened the meeting.

1:51:26 PM

JASMIN MARTIN, Staff, Senator David Wilson, Alaska State Legislature, Juneau, Alaska, on behalf of the sponsor, answered that Amendment 1 would only apply to [Sec. 11.56.785](a)(i), for those who make repeated emergency communications to report a previously reported incident. She explained that under Amendment 1, an "emergency communication" means a communication made to or from an emergency communications center. Thus, it is not in-person communication but repeated calls to the emergency communications center. In order to be charged under [Sec. 11.56.785](a)(i), a person would need to make repeated calls with no change in circumstance. For example, if someone was hurt or their condition worsens or improves, it would mean a change in their circumstance. In order for the person to be charged, there would have to be no change in circumstance, and the 911 operator would need to have told the person to stop calling because it was tying up lines and someone had already reported the incident. She offered her view that this clarifies the matter.

1:53:21 PM

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage,

Alaska, stated that he had not previously reviewed Amendment 1 but offered his short analysis. He noted that Amendment 1 was drafted to say a person may not be charged. However, that manner of drafting is inconsistent with criminal law, which would draft the language as a defense. For example, AS 11.41.432 lists the defenses for offenses against a person by indicating what conduct applies. However, stating that a person cannot be charged creates other problems. Second, the amendment addresses AS 11.56.785(a)(1), which says that it is a crime if a person makes repeated calls after being told to stop. Amendment 1 would add a caveat when the person believes they were acting in good faith and in a manner the person reasonably believes was in the best interest and continues to make calls. He viewed Amendment 1 as basically gutting subsection (a)(1). Someone will always say they were acting in good faith, and they thought it was in the best interests of the person facing the emergency, even though the 911 operator told them to stop. He deferred to the committee to decide. He suggested that if the committee intends to stop callers or criminalize their conduct when the operator tells them to stop making calls, it should not adopt Amendment 1.

[1:56:07 PM](#)

SENATOR SHOWER acknowledged that Amendment 1 did not seem to match the intent, which is to recognize that some people are acting in good faith.

SENATOR SHOWER withdrew Amendment 1.

CHAIR HOLLAND stated that Amendment 1 was withdrawn.

[1:57:21 PM](#)

CHAIR HOLLAND asked for closing comments, and there were none.

[1:57:26 PM](#)

SENATOR SHOWER moved to report SB 182, work order 32-LS1103\O, from committee with individual recommendations and attached fiscal note(s).

CHAIR HOLLAND heard no objection, and CSSB 182(JUD) was reported from the Senate Judiciary Standing Committee.

[1:57:46 PM](#)

At ease

[2:00:11 PM](#)

CHAIR HOLLAND reconvened the meeting.

SB 189-CRIME OF SEX/HUMAN TRAFFICKING

[2:00:17 PM](#)

CHAIR HOLLAND announced the consideration of SENATE BILL NO. 189 "An Act relating to sex trafficking; establishing the crime of patron of a victim of sex trafficking; relating to the crime of human trafficking; relating to sentencing for sex trafficking and patron of a victim of sex trafficking; establishing the process for a vacatur of judgment for a conviction of prostitution; and providing for an effective date."

[SB 189 was previously heard on 2/28/22.]

[2:00:43 PM](#)

SENATOR MYERS referred to vacating a conviction. He related his understanding that this is the first instance in which the department will allow vacating convictions. He asked how the Alaska Court System would treat it and how the department would interact during the process.

[2:01:17 PM](#)

JOHN SKIDMORE, Deputy Attorney General, Office of the Attorney General, Criminal Division, Department of Law, Anchorage, Alaska, responded that he could not speak on behalf of the Alaska Court System. However, he outlined the process he envisioned would occur if someone were to file a petition to have a judgment vacated. He anticipated that the court system would generate a form that would have the case information and allow the prosecutor to indicate whether they oppose or do not oppose the petition. If the petition were not opposed, the court would likely grant it. If it were opposed, the court would set a hearing, and the petitioner would present evidence to the court. The person opposing the petition, presumably the prosecutor, would examine the evidence, give their view, and ultimately a judge would decide whether to vacate the conviction based on legal standards.

[2:02:58 PM](#)

SENATOR MYERS surmised that most people convicted of prostitution would likely qualify for a public defender.

MR. SKIDMORE answered that he was unsure but agreed that some probably would qualify for a public defender.

SENATOR MYERS asked whether those applying to have their conviction vacated would be eligible for a public defender.

MR. SKIDMORE answered that he had not examined the public defender statutes to determine if that would fall within their statutory authority but surmised that it probably was not currently authorized. He indicated that it was possible to do so if the committee decided it was appropriate to afford someone a public defender or an attorney. He pointed out that under the Alaska Constitution and the US Constitution, a person is entitled to a defense attorney if they cannot afford one. Since this vacates a conviction, this is not a matter of what the Alaska Constitution requires. He noted that he was neutral on the matter.

2:04:41 PM

SENATOR MYERS offered his view that it makes sense to do so. He stated that he would like to ask the Alaska Court System for comments.

2:05:44 PM

NANCY MEADE, General Counsel, Administrative Offices, Alaska Court System, Anchorage, Alaska, agreed that the Alaska Court System would create a form and process for vacating judgments. She referred to page 21, lines 9-10, which states that the prosecuting authority shall file a response within 45 days. She highlighted that many of the cases for prostitution were prosecuted by the Municipality of Anchorage (MOA). She reported that the database has over 1,000 convictions for prostitution, but most were municipal cases, not state cases. This bill would require the MOA to file a response. It may be helpful that if no response is filed or the response is that MOA does not oppose vacating the conviction, it might be more expedient to state in statute that the court shall grant it.

2:08:03 PM

MS. MEADE said since someone would need to dig up the file from an earlier date to vacate a class B misdemeanor issued years ago, it likely would not be a great use of the court's time. Otherwise, the court may need to set it for a hearing if MOA or the department says this person was not a victim of sex trafficking and that the conviction should stand.

MS. MEADE acknowledged Senator Myer's point on providing a public defender for those seeking to vacate their convictions. She offered her view that if the prosecuting authority doesn't oppose it, it could be resolved quickly. She reported that the public defender statutes do not include this authority. She suggested that it would need a subsection to state that if the

person is indigent, the public defender is authorized to defend them.

[2:09:27 PM](#)

SENATOR SHOWER asked whether changing the standard of proof from a preponderance of the evidence to clear and convincing evidence would reduce the amount of court time.

MS. MEADE responded that this was not something she had considered. She offered her view that the department and MOA would not oppose vacating convictions for sex trafficking cases. She noted that the Alaska Court System did not ask for additional clerical support in its fiscal note. She did not think that the typical cases would be burdensome. She suggested that in cases where the prosecuting authority opposes vacating the conviction, the committee could clarify if it would like a jury trial. She related that jury trials would add expense, complexity, and additional time. She explained they are factual findings, but the statute could say judges could rule on these cases.

[2:11:14 PM](#)

MS. MEADE stated that concerning the burden of proof, the preponderance of the evidence is just over 50 percent and that the higher standard is clear and convincing evidence. She said she would be skeptical that it would affect the court system's workload.

[2:12:03 PM](#)

SENATOR SHOWER asked the Department of Law to comment.

MR. SKIDMORE opined that raising the burden of proof should not be done. He offered his belief that it needs to remain a preponderance of the evidence to protect the victims. He explained that one reason to suggest that the judge make the decision is to make it easier to vacate a conviction rather than making it more complex by having a jury. He stated that a judge could make a factual determination. He agreed with Ms. Meade that the vast majority of the cases are MOA cases that would be handled by the municipal attorney's office, not the Department of Law.

[2:13:18 PM](#)

SENATOR HUGHES referred to page 21, lines 15-20, to the language that presumes someone under the age of 18 is a victim. She asked whether it would be helpful to identify instances when the sex trafficker provided housing or drugs. She noted that Ms. Meade

suggested the process could be straightforward and avoid a lengthy process such as a jury trial.

MS. MEADE responded that identifying those under the age of 18 at the time of the offense would be an entirely objective determination. She related that this falls under rebuttable presumption. However, people may disagree with the facts once it gets beyond an objective determination. However, if the petition stated the victim was on drugs and the sex trafficker only gave the victim drugs if they engaged in the sexual behavior, it would be a factual assertion, and the municipality or Department of Law might disagree.

[2:15:08 PM](#)

MR. SKIDMORE agreed with Ms. Meade. He referred to page 6 to the definition of "victim of sex trafficking," which lists the criteria that guide the courts, petitioners, and prosecutors to evaluate whether a person is a victim. He questioned whether adding it someplace else might make it more cumbersome. He deferred to the committee to determine if someone under the age of 18 was coerced or coached but not willingly engaged in prostitution.

SENATOR HUGHES asked whether the list should be referenced or if it would be automatically referenced.

MS. MEADE opined that it would be automatic. The person must prove that they were a victim of sex trafficking under AS 11.41.370(12). She stated that would be the cite people would refer to, and when the court system creates the form, it would ask if any of the criteria applied to the person. She envisioned that the form would consist of checkboxes and fill-in lines for information.

[2:17:06 PM](#)

MR. SKIDMORE responded that he viewed it as a bill drafting issue. He deferred to Legislative Legal or the Department of Law drafters as to whether it would be helpful and how they would go about doing so. He couldn't think of a statute that makes that connection.

[2:17:49 PM](#)

SENATOR KIEHL referred to page 21, Vacatur of judgment. Once the court grants the petition, the Department of Public Safety may not release information related to the conviction for prostitution under AS 11.66.100(a)(1). He asked what the cross-reference covers.

MR. SKIDMORE asked for clarification on the question.

SENATOR KIEHL asked what the cross-references to AS 11.66.100(a)(1) and AS 12.62(160(b)(6),(8), or (9) referred to and what was left.

[2:19:11 PM](#)

MR. SKIDMORE answered that AS 12.62.160 refers to when the Department of Public Safety (DPS) information is released. He noted that DPS handles requests for this type of information for the department.

SENATOR KIEHL noted he did not need the information immediately.

[2:20:15 PM](#)

MR. SKIDMORE explained that Ms. Purinton handles requests for all types of information for job applications and other matters. This statute guides what information the department can release.

[2:21:01 PM](#)

SENATOR SHOWER related his understanding from previous hearings on the bill, that a significant amount of sex trafficking happens to minors. He noted the statistics showed 72 percent of children were living at home. He asked whether the administration had a willingness to provide funding for education. He wondered how to better inform school age children how to get help, such as counseling.

MR. SKIDMORE answered that the topic was being discussed within the administration. He was unsure whether the current education included Bree's law since it highlights the warning signs of dating violence and abusive behavior while focusing on developing healthy relationships. He expressed the administration's willingness to entertain suggestions. He pointed out that some things can happen without changing the law.

[2:23:16 PM](#)

SENATOR SHOWER clarified that he didn't want to change the bill related to criminal penalties, but it seemed glaringly obvious that the state should do better. He asked whether there was any nexus with other states, federal or international laws, or treaties since some activity crosses state lines or boundaries. He wondered if he could highlight areas the committee should consider in this bill or another bill. He offered to discuss this further offline.

MR. SKIDMORE responded that the federal Mann Act criminalizes the transportation of any woman or girl for prostitution, debauchery, or any other immoral purpose across state lines. He noted that other federal laws exist, although he is not an expert on them. He stated that the US Attorney's Office was already engaged in those prosecutions. These statutes were meant to provide the tools for prosecutors within the state to address the things that don't necessarily fall within the federal jurisdiction. He reported that the Department of Law has excellent and regular communication with state and federal counterparts. He said nothing came to mind, but he offered to make inquiries and report to the committee. He noted that this was not the focus of SB 189.

[2:26:13 PM](#)

LISA PURINTON, Chief, Criminal Records and Identification Bureau, Department of Public Safety (DPS), Anchorage, Alaska, responded to Senator Kiehl's question on the release of information in AS 12.62.160(b)(6), (8), or (9). She explained that this provision references criminal history background checks for employment or licensing purposes authorized by another statute, or as Mr. Skidmore mentioned, for individuals seeking a background check, such as a landlord seeking to check out a potential renter.

[2:27:17 PM](#)

SENATOR KIEHL asked when the department would release information about a vacated conviction.

MS. PURINGTON answered that the information would be available for law enforcement criminal investigations and criminal justice employment, in instances where the department was hiring troopers or other law enforcement officers. She related that the information on vacated convictions would still be viewable in those instances.

[2:27:53 PM](#)

SENATOR HUGHES recalled Ms. Meade stating that a conviction of prostitution could not be removed from CourtView if the person had other convictions. She wondered if that could be addressed to allow the administration to remove the prostitution portion of the conviction.

MS. MEADE answered that the Alaska Court System could not remove parts of a case from CourtView because, technologically, it isn't possible. She explained that what the public sees on the

Alaska Court System's CourtView is a subset of the entirety of CourtView, which is ACS's case management system. She explained that ACS could not post things on the public portion since the public portion is a subset of the court system's database. They are not two separate databases. ACS cannot remove items from CourtView without removing them from the official court records in their entirety. She highlighted that it is essential for ACS to keep accurate records of what occurred.

2:29:20 PM

MS. MEADE emphasized that this must get resolved in the bill. She noted that other bills that the legislature is considering or has passed state that a conviction could be removed from CourtView if it is the only criminal conviction in that case. She suggested that language would be easy to draft. Alternatively, the committee could draft language to remove the conviction from CourtView even if the person was convicted of other criminal charges in the case. She viewed this as the legislature's policy call. She maintained that the court system could remove the entire case from CourtView or not at all. She stated that she compiled data on the number of cases with practicing prostitution convictions with other charges. As she mentioned earlier, there are about 1000 cases with convictions for prostitution, and of those, about 65 have other convictions in the same case. She suggested that the committee might want to consider vacating convictions of prostitution only if there were no other convictions in the same case.

2:30:43 PM

SENATOR HUGHES asked for a range of other charges for the 65 cases.

MS. MEADE answered that she did not have that data. She surmised that it might be a drug charge related to sex trafficking. However, it could be an assault charge, evading arrest, or murder.

2:31:27 PM

SENATOR KIEHL directed attention to page 18, which defines sexual felony. Most of the language in Section 24 of SB 189 seems to conform to other changes in the bill. He noted that language relating to the distribution of indecent materials to minors was inserted. He stated that it was pretty broad.

MR. SKIDMORE asked if the question was what the crime currently covers or the reason the language was added to the statute.

SENATOR KIEHL clarified that he was interested in what the crime currently covers.

[2:32:52 PM](#)

CHAIR HOLLAND noted the intent was to take invited testimony and set the bill aside.

[2:33:13 PM](#)

MR. SKIDMORE directed attention to AS 11.61.168 to the distribution of indecent materials. This refers to someone intentionally distributing material known to violate AS 11.41.455, which is the unlawful exploitation of a minor. This crime would be a person producing a film or photo of someone under the age of 18 engaged in simulated or actual sexual penetration, touching, masturbation, bestiality, lewd exhibition, sexual masochism, or sadism and distributing it to another young person. He related his understanding that this section had a drafting error, which he would provide to the committee after reviewing it.

[2:34:14 PM](#)

CHAIR HOLLAND turned to invited testimony.

[2:34:44 PM](#)

TONY WEGRZYN, Sergeant, Alaska State Troopers, Department of Public Safety (DPS), Wasilla, Alaska, provided invited testimony supporting SB 189. He has served as a trooper for over 19 years, assigned as a supervisor for the Special Crimes Investigation Unit, responsible for investigating sex trafficking throughout Alaska. He currently works in various roles to combat sex trafficking, including working undercover, which provides insight into the operational realities of prostitution and sex trafficking. He previously worked as the unit supervisor for the Major Crimes Unit, responsible for investigating serious felony offenses such as homicide and sexual assault.

SERGEANT WEGRZYN stated his testimony would focus on supply and demand and the risks to the public regarding sex trafficking. As members know, SB 189 would create the new crime of patron of a victim of sex trafficking. He emphasized the importance of targeting sex traffickers and patrons that create the demand for the victims of sex trafficking, especially underage victims. He said sex trafficking relies on supply and demand. In the case of sex trafficking, traffickers force sex workers for money. The "johns" or patrons of the prostitutes provide the funding source for sex trafficking. Law enforcement cannot combat sex trafficking solely by targeting the supply; it must attack the

demand. This means the state must hold those who fund sex traffickers accountable. Through investigative interviews, he found many patrons ignore that their behavior supports sex trafficking or that the prostitute was forced to perform the sexual conduct under duress.

2:37:22 PM

SERGEANT WEGRZYN noted that some patrons knowingly or recklessly disregard the victim's age. He related a recent assignment where he posted an advertisement portraying a young female on an escort website dedicated to advertising sex for money. He reported that during the first 8 hours, he received interest from 50 unique contact numbers, which indicates the demand for this type of activity. Very few ever asked about the prostitute's age or if they were being managed or acting independently.

SERGEANT WEGRZYN explained that voluntary compliance with the law requires several components. He stated that the Special Crimes Investigation Unit is committed to investigating sex trafficking and holding sex traffickers and patrons accountable. He offered his belief that the penalty must be commensurate with the public safety risk.

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SERGEANT WEGRZYN highlighted that sex traffickers institute countermeasures to avoid detection. The patrons outnumber traffickers 100 to 1. This bill proposes to elevate the conduct of prostitution from a class B misdemeanor to a class A misdemeanor, graduating the penalty to a felony if the person is convicted three times within five years. He offered his belief that updating these statutes is vital to deter patrons of sex trafficking. Otherwise, the commission of the crime of prostitution does not have a penalty commensurate with other crimes. For example, during sting operations, potential patrons of sex workers showed up armed with a handgun. The johns bring the firearms for fear of being robbed. He explained that prostitutes know johns engage in unlawful behavior, so they are less likely to report a robbery. In 2017, he investigated a murder where a john was assaulted, robbed, and his handgun was stolen when he answered a prostitution advertisement. Shortly after the john's handgun was stolen, a 16-year-old boy was murdered. He noted that one website allows patrons to create a username and enter a forum to discuss their encounters with prostitutes. The website has a "rip-off" section, where patrons can warn potential patrons by identifying which prostitute stole

their keys or wallets, which is a common occurrence during these "dates."

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SERGEANT WEGRZYN related his experience where prostitutes were assaulted during "dates." Some prostitutes either risk being assaulted or killed or are recruited by a sex trafficker for the perceived protection they would provide. He characterized that as a "lose-lose" situation. He emphasized that one provision in the bill has language that includes providing or withholding substances as a mechanism of coercion or force used by sex traffickers. He reported that in his interviews with independent sex workers and women who have been sex trafficked, many were addicted to controlled substances. Although the women are already engaged in a high-risk lifestyle, their addiction to controlled substances makes them especially vulnerable to sex traffickers. He related that often the sex trafficker starts by being the connection to controlled substances or drugs. Once connected, the sex trafficker can manipulate and coerce the women to sell themselves for the drug. This draws a distinct relationship between the addictions to controlled substances and human trafficking and sex trafficking. He stated that the bill also contains other provisions that would provide needed tools to effectively investigate these crimes and prosecute the offenders engaged in this conduct.

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SENATOR SHOWER asked whether there were any incentives to motivate those engaged in prostitution or human trafficking to turn state's evidence against their sex trafficker or pimp.

MR. WEGRZYN answered that he could not identify anything that would prevent or enhance law enforcement from doing their job. He noted that he discussed the bill with the Department of Law.

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CHRIS DARNALL, Assistant Attorney General, Office of Special Prosecutions, Criminal Division, Department of Law, Anchorage, Alaska, provided invited testimony supporting SB 189. He stated that his practice focuses on cybercrime and crimes with a technological nexus, including internet crimes against children and increasingly human and sex trafficking. He said he works closely with law enforcement at the state, federal and local levels. These law enforcement officers focus on sex trafficking, human trafficking, and child sexual exploitation that uses social media, cell phones, and other digital means to commit trafficking offenses.

MR. DARNALL related his knowledge from working with law enforcement partners on sex trafficking cases over the past few years. First, he emphasized that human and sex trafficking occur in Alaska. He stated that Alaska has illicit massage parlors, prostitutes, and people working to the bone without pay wherever vulnerable workers are employed. Human trafficking and sex trafficking happen here, even if law enforcement does not see shipping containers full of people passing through the ports.

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MR. DARNALL identified one of the significant problems for prosecutors, which is that sex trafficking and human trafficking is a hidden crime. Outside of an occasional sting or operation, trafficking victims show up in domestic violence assaults, drug possessions, and theft arrests. He said he rarely encounters cases that start and end as a sex trafficking investigation. One reason could be because sex trafficking victims themselves often avoid law enforcement, and if they do speak, they might not indicate that they are sex trafficked. He offered his view that this reluctance may be due to previous bad experiences with law enforcement, or they've been conditioned to view law enforcement unfavorably. The result is that even if trafficking is happening, it may not be as apparent as other crimes because they are not reported, and the signs of sex trafficking are easy to miss. If officers do not observe sex trafficking, they may not refer the cases. If prosecutors do not believe that sex trafficking statutes have sufficient penalties, they will not impose charges. Further, there might be other charges with harsher penalties than for sex trafficking.

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MR. DARNALL stated that sex trafficking cases are resource-intensive with lower penalties than other crimes so that prosecutors may pursue other cases. For example, he prosecutes internet crimes against children, including unlawfully exploiting a child by creating a recording of a child engaged in sexual activity. He estimated that prosecuting someone for that offense would involve two or three law-enforcement witnesses, a records custodian, and the trial would take about one week. This could convict someone of an unclassified sex felony sentence, with a penalty of 15 to 25 years' incarceration, depending on the victim's age. However, sex trafficking or human trafficking cases use far more resources to prosecute and investigate. The investigations take multiple officers, numerous interviews, and numerous civilian witnesses, all of which takes considerable time to prosecute. He recalled that the most recent human

trafficking case had 10 years of records. Simply reading and organizing the case would take a prosecutor and investigator days or weeks to complete.

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MR. DARNALL said it was difficult to decide to prosecute these cases when prosecutors have a docket full of other equally important cases with sentences that range up to 99 years. In his experience, sex trafficking victims take up more time after charges are filed than victims of other crimes. He recalled one case in which sex trafficked victims sent story after story to the prosecutor or called supervisors or other officers in an attempt to exonerate the defendant. Each encounter required providing discovery to the defense. These issues tend not to happen in other cases. Further, the current penalty provisions result in a sex felony sentence if someone under the age of 20 is being trafficked. He concluded that law enforcement officers or prosecutors might arrest sex traffickers for other crimes that could be more effectively applied than sex trafficking.

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MR. DARNALL suggested that the changes in the bill should make it easier to bring sex trafficking cases to trial. He offered his view the instituting felony penalties for committing sex trafficking crimes helps justify law enforcement and prosecutors spending significant time and resources preparing and investigating these cases. He pointed out that prosecutors can only handle a certain number of cases, so they must evaluate the amount of work it will take.

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MR. DARNALL highlighted that the bill would allow law enforcement to target illicit massage parlors. He commented that there are online "reviews" of massage parlors discussing the sexual services offered. He stated that operators of these establishments are sometimes connected to organized crime. Others are just savvy business owners, making illicit massage parlors challenging to investigate. It often requires sending in an undercover agent to make a prosecutable case. These cases put officers at risk, require proving an owner intended to facilitate prostitution, and currently result in a class C felony. He remarked that it is difficult to prove specific intent beyond a reasonable doubt.

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MR. DARNALL offered his view that the tiered system addresses the most serious forms of human trafficking and sex trafficking.

He spoke in support of the expungement option since at trial, witnesses can't be questioned about prior offenses that they were forced to commit. He favored increasing punishments for johns in a graded way that might actually help curb demand.

MR. DARNALL stated this bill creates a logical separation between human trafficking and sex trafficking crimes. He highlighted that the current statutes have some degree of overlap for the commercial sex component. This bill will strengthen the human trafficking statutes, which will enable prosecutors to prosecute this activity. He highlighted that people are being forced by human traffickers to work without pay and not divulge their information. Traffickers coerce victims by threatening to steal documents, report them to the authorities, or go after them for a debt.

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CHAIR HOLLAND thanked Mr. Darnall.

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SENATOR KIEHL expressed concern that the prosecutor's office was basing criminal justice on the amount of time and resources it takes to prosecute cases and the potential length of prison sentences. He stated that his work on the bill has nothing to do with that approach to criminal justice or public safety in Alaska.

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CHAIR HOLLAND thanked the invited testifiers.

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CHAIR HOLLAND held SB 189 in committee.

[2:56:28 PM](#)

There being no further business to come before the committee, Chair Holland adjourned the Senate Judiciary Standing Committee meeting at 2:56 p.m.